

Statement of the Case.

tion of title to property situated in the States, where the courts of the United States, proper, are parts of the Federal system, "invested with the judicial power of the United States expressly conferred by the Constitution, and to be exercised in correlation with the presence and jurisdiction of the several state courts and governments." *Hornbuckle v. Toombs*, 18 Wall. 648, 655.

And as wherever the United States exercise the power of government, whether under specific grant, or through the dominion and sovereignty of plenary authority as over the Territories, *Shively v. Bowlby*, 152 U. S. 1, 48, that power includes the ultimate executive, legislative, and judicial power, it follows that the judicial action of all inferior courts established by Congress may, in accordance with the Constitution, be subjected to the appellate jurisdiction of the supreme judicial tribunal of the government. There has never been any question in regard to this as applied to territorial courts, and no reason can be perceived for applying a different rule to the adjudications of the Court of Private Land Claims over property in the Territories.

The motion to dismiss is

Denied.

SIPPERLEY *v.* SMITH.

APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF UTAH.

No. 683. Submitted October 15, 1894. — Decided October 29, 1894.

The rule reiterated that where a judgment or decree is joint, all the parties against whom it is rendered must join in the writ of error or appeal, unless there be summons and severance or the equivalent.

MOTION to dismiss or affirm. The court stated the case as follows :

A. F. Sipperley and H. S. Lee, composing a partnership under the firm name of A. F. Sipperley & Co., doing business in the city of Salt Lake, Utah, made an assignment of their partner-

Statement of the Case.

ship property to one Ross in trust to convert the same into money and pay creditors in the order named, first, M. J. Gray and the Union Bank of Greeley, Colorado, in full ; second, Mrs. A. F. Sipperley, Mrs. E. J. Walling, and H. A. Lee, certain individual indebtedness, in full ; third, their remaining creditors. John O. Smith, George Whiting, Charles F. Connor, and George S. Smith, composing the firm of Smith, Connor & Co., brought suit against A. F. Sipperley and H. S. Lee, in the District Court for the Third Judicial District of Utah Territory, and levied an attachment on the assigned property upon the ground that Sipperley & Co. had disposed thereof with intent to defraud their creditors. Thereupon the preferred creditors, M. J. Gray, the Union Bank of Greeley, Colorado, Mrs. Sipperley, Mrs. Walling, and H. A. Lee, filed an intervening complaint in said suit, praying for a receiver, and that the assignment be declared valid and the indebtedness due them be ordered to be paid out of the proceeds of the property and for general relief ; which intervening complaint was answered by the original plaintiffs, who prayed therein that the assignment be adjudged fraudulent and void. The cause was tried by the District Court of the Third Judicial District, a jury having been duly waived ; the trial judge filed findings of fact and conclusions of law, and rendered judgment, adjudging the assignment fraudulent and void ; dismissing the complaint of intervention ; and directing the receiver (the assignee having in the meantime been appointed receiver) to pay plaintiffs in certain other suits consolidated with this and then these plaintiffs.

The title of the cause in the District Court under which the findings of fact and conclusions of law appeared in the record, and also the judgment, was as follows : " John O. Smith *et al.*, Plaintiffs, *vs.* A. F. Sipperley *et al.*, Defendants, and M. J. Gray, Mrs. A. F. Sipperley, Mrs. E. J. Walling, H. A. Lee, and the Union Bank of Greeley, Colorado, Intervenor." The record did not contain the prayer for and allowance of appeal to the Supreme Court of Utah, but showed as at the June term, 1893, of that court, the following order : " John O. Smith *et al.* *vs.* A. F. Sipperley *et al.*, Def'ts, and M. J. Gray

Statement of the Case.

et al., Intervenor & Appellants. This cause coming on regularly to be heard, was argued by Hon. John W. Judd in behalf of appellants, by Charles C. Dey, Esq., in reply, was submitted, and taken under advisement." The judgment of the District Court was thereafter affirmed. The opinion of the Supreme Court is given and is entitled, "John O. Smith *et al.*, Respondents, *vs.* A. F. Sipperley *et al.*, Appellants." Subsequently this order was entered: "John O. Smith *et al.* *vs.* A. F. Sipperley, Def'ts, and M. J. Gray *et al.*, Intervenor & Appellants. In this cause counsel for appellants prays the allowance of an appeal from the judgment of this court, rendered therein, to the Supreme Court of the United States, and asks that the amount of a bond to be given thereon be now fixed, and it was ordered that such appeal, as prayed for, be and is hereby allowed, and the amount of a bond to be given thereon is fixed in the sum of five thousand dollars, and the amount of a bond for costs is fixed in the sum of five hundred (500) dollars."

The record disclosed a bond dated December 22, 1893, entitled "John O. Smith *et al.*, Respondents, *vs.* A. F. Sipperley *et al.*, Defendants, and M. J. Gray *et al.*, Intervenor, Appellants," signed by Mrs. Sipperley, Mrs. Walling, H. A. Lee, and the Union Bank of Greeley, Colorado, as principals, running to John O. Smith, George Whiting, Charles P. Connor, and George S. Smith, composing the firm of Smith, Whiting, Connor & Co., in the penal sum of \$5500, and reciting that, "Whereas the above-named Mistress A. F. Sipperley, Mistress E. J. Walling, H. A. Lee, and the Union Bank of Greeley, Colorado, have prosecuted an appeal to the Supreme Court of the United States," etc. This bond was approved by the Chief Justice of Utah, and filed on the day of its date. Citation was issued, dated January 4, 1894, and directed to John O. Smith, George Whiting, Charles P. Connor, George S. Smith, and their attorneys, reciting that Mrs. Sipperley, Mrs. Walling, H. A. Lee, and the Union Bank of Greeley, Colorado, had appealed, etc., service of which citation was admitted January 12, 1894. An assignment of errors in this court was also filed in that court January 12, entitled

Syllabus.

"John O. Smith *et al.* vs. A. F. Sipperley *et al.*, and Mrs. A. F. Sipperley, Mrs. E. J. Walling, H. A. Lee, and the Union Bank of Greeley, Colorado, Intervenor & Appellants." No application for summons and severance as to M. J. Gray or any equivalent therefor appeared in the record, nor any order permitting severance; nor was any application made in this court for the issue of citation to A. F. Sipperley and H. S. Lee, or leave to perfect the appeal as to them; nor did they or Gray appear herein.

Appellees moved to dismiss or affirm.

Mr. C. H. Armes for the motion.

Mr. J. W. Judd opposing.

THE CHIEF JUSTICE: The motion to dismiss is sustained upon the authority of *Masterson v. Herndon*, 10 Wall. 416; *Hardee v. Wilson*, 146 U. S. 179; *Inglehart v. Stansbury*, 151 U. S. 68; *Davis v. Mercantile Trust Co.*, 152 U. S. 590.

Appeal dismissed.

NEW YORK v. ENO.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF NEW YORK.

No. 602. Argued and submitted October 17, 1894. — Decided October 29, 1894.

Whether an offence described in an indictment in a state court is an offence against the laws of that State and punishable thereunder, or whether it is made by Federal statutes an offence against the United States, exclusively cognizable by their courts, and whether the same act may be an offence against both national and state governments, punishable in the tribunals of each, without infringing upon the constitutional guaranty against being twice put in jeopardy of limb for the same offence, are questions which a state court of original jurisdiction is competent to decide in the first instance; and, (its obligation to render such decision as will give full effect to the supreme law of the land, and protect any right secured by it to the accused, being the same that rests upon the courts of the United States,) the latter, if applied to for a writ of *habeas corpus* in